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Attorneys for Plaintiffs,

D.A.B. and D.Y.B, by and through their Guardian ad Litem,

TERRI THOMAS, and as Successors in Interest to

the ESTATE of DARREN BURLEY

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

D.A.B. and D.Y.B., by and through
their Guardian Ad Litem, TERRI
THOMAS, and as Successors in
Interest to the ESTATE of
DARREN BURLEY,

Plaintiffs,

vs.

THE COUNTY OF LOS
ANGELES; DEPUTY DAVID
AVILES and DOES 1-10, Inclusive,

Defendants.

CASE NO.: 2:22-cv-04207

COMPLAINT FOR DAMAGES

- 1. Unreasonable Search and Seizure - Detention and Arrest
42 U.S.C. § 1983**
- 2. Excessive Force and Denial of Medical Care - 42 U.S.C. § 1983**
- 3. Substantive Due Process - 42 U.S.C. § 1983**
- 4. Interference with Familial Relationship and Freedom of Association - 42 U.S.C. § 1983**
- 5. Municipal Liability for Unconstitutional Custom or Policy - 42 U.S.C. § 1983**

JURY TRIAL DEMAND

1 D.A.B. and D.Y.B., minors, by and through their Guardian Ad Litem, Terri
2 Thomas, and as Successors in Interest to the ESTATE of DARREN BURLEY
3 allege as follows:

4 **INTRODUCTION**

5 1. This civil rights action seeks compensatory and punitive damages
6 from Defendants for violating various rights under the United States Constitution
7 in connection with the deadly beating of the DECEDENT, Darren Burley.

8 **PARTIES**

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10 2. At all relevant times herein, Darren Burley (hereinafter referred to as
11 “DECEDENT”) was an individual residing in the County of Los Angeles,
12 California. He was an African American male who was born on June 9, 1982. He
13 died on August 15, 2021, twelve (12) days after he was attacked by the Defendants
14 as described below.

15 3. At all relevant times mentioned in this Complaint, Plaintiffs D.A.B.
16 and D.Y.B. were residents of DeKalb County, Georgia. Plaintiffs are the natural
17 minor sons of the decedent DARREN BURLEY (referred to as “DARREN” or
18 “Mr. BURLEY”). D.A.B. was born on January 23, 2008, and D.Y.B. was born on
19 June 2, 2010. At all relevant times mentioned here, TERRI THOMAS (“TERRI”
20 or “Mrs. THOMAS”) was a resident of DeKalb County, Georgia and the duly
21 appointed Guardian Ad Litem for minor Plaintiffs.

22 4. At all relevant times herein, Defendant THE COUNTY OF LOS
23 ANGELES (referred to as “County”) is an incorporated public entity duly
24 authorized and existing as such in and under the laws of the State of California;
25 and at all times herein mentioned, Defendant COUNTY has possessed the power
26 and authority to adopt policies and prescribe rules, regulations and practices
27 affecting the operation of the Los Angeles Sheriff’s Department and its tactics,
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1 methods, practices, customs, and usage. At all relevant times, Defendant COUNTY
2 was the employer of DOES Defendants, individually and as peace officers.

3 5. Plaintiffs are informed, believe, and allege that Defendant DAVID
4 AVILES (“AVILES”) is a Deputy Sheriff employed by Los Angeles County and
5 the Los Angeles County Sheriff’s Department. At all times during the Incident,
6 Defendant AVILES was acting within the course and scope of his employment
7 with the COUNTY.

8 6. At all relevant times, DOES Defendants, individually and as a peace
9 officer; were duly authorized employees and agents of the COUNTY, who were
10 acting under the color of law within the course and scope of their respective duties
11 as police officers and within the complete authority and ratification of their
12 principal, Defendant COUNTY.

13 7. At all relevant times, Defendants individually and as peace officers;
14 were duly appointed officers and/or employees or agents of the COUNTY, subject
15 to oversight and supervision by the COUNTY’s elected and non-elected officials.
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17 8. In doing the acts and failing and omitting to act as hereinafter
18 described, Defendants, individually and as peace officers; were acting on the
19 implied and actual permission and consent of the COUNTY.

20 9. At all times mentioned herein, each and every COUNTY defendant
21 was the agent of each and every other COUNTY defendant and had the legal duty
22 to oversee and supervise the hiring, conduct, and employment of each and every
23 COUNTY defendant.

24 10. At all relevant times, Defendants, individually and as peace officers;
25 were working for Defendant COUNTY as police officers.

26 11. Plaintiffs are unaware of the true names and capacities of those
27 Defendants named herein as DOES 1-10 Defendants. Plaintiffs will amend this
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1 Complaint to allege said Defendants' true names and capacities when that
2 information becomes known to Plaintiffs. Plaintiffs are informed and believes, and
3 thereon alleges that these DOES 1-10 are legally responsible and liable for the
4 incident, injuries, and damages hereinafter set forth, and that each of said
5 Defendants proximately caused the injuries and damages by reason of negligent,
6 careless, deliberately indifferent, intentional, willful, or wanton misconduct,
7 including the negligent, careless, deliberately indifferent, intentional, willful, or
8 wanted misconduct in creating and otherwise causing the incidents, conditions, and
9 circumstances hereinafter set forth, or by reason of direct or imputed negligence or
10 vicarious fault or breach of duty arising out of the matters herein alleged. Plaintiffs
11 will seek to amend this Complaint to set forth said true names and identities of the
12 unknown named DOE Defendants when they are ascertained.

13 JURISDICTION

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15 12. This civil action is brought for the redress of alleged deprivations of
16 constitutional rights as protected by 42 U.S.C. §§ 1983, 1985, 1986, and 1988, and
17 the First, Fourth, and Fourteenth Amendments of the United States Constitutions.
18 Jurisdiction is founded on 28 U.S.C. §§ 1331, 1343, and 1367.

19 13. Venue is proper in this Court under 28 U.S.C. § 1391(b) and (c),
20 because Defendants reside in, and all incidents, events, and occurrences giving rise
21 to this action occurred in, the County of Los Angeles, California.

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FACTS COMMON TO ALL CAUSES OF ACTION

14. Plaintiffs repeat and re-allege each and every allegation in paragraphs 1 through 13 of this Complaint with the same force and effect as if fully set forth herein.

15. During the evening hours on or about August 3, 2012, at or near the 1300 block of East Glencoe Street, Compton, California, 90211, DARREN was walking down the street when he was stopped by several unknown members of the Los Angeles County Sheriff's Department. After being stopped, the deputies threatened to hit, taser, and strike Mr. BURLEY with impact weapons, and did in fact, hit, taser, and strike DARREN with impact weapons about his head and body. As a legal result of their actions, Mr. BURLEY sustained fatal injuries and damages to his mind and body. As a further legal result of the Defendant deputies' actions and failures to act on August 3, DARREN died on August 15, 2012.

16. DARREN did nothing to justify this use of deadly force against him. He had not posed any reasonable threat of imminent death or serious bodily injury to any of the involved COUNTY deputies, or any other person, so as to justify this use of serious and deadly force against him. Plaintiffs are informed and believe that DARREN's race, color, and ancestry were each a substantial factor leading to the Defendants' decision to assault, batter, taser, and strike him about the head and body, given the circumstances with which they were then presented. None of the deputy Defendants who battered, tasered, and struck Mr. Burley are African American. Consequently, in choosing to exercise severe and malicious force against him, each of the Defendants discriminated against him on account of his race.

1 17. Both prior to and during the time in which DECEDENT was killed by
2 the Defendants, DECEDENT made no aggressive movements, no furtive gestures,
3 and no physical movements which would suggest to a reasonable deputy that the
4 DECEDENT had the will, or the ability to inflict substantial bodily harm against
5 any individual or deputy.

6 18. Plaintiffs are informed and believe that Defendant Aviles was a
7 member of the Executioners – a Compton Sheriff Deputy gang. Plaintiffs further
8 believe that the Executioners are composed of only Latino and/or Hispanic
9 members. There are no women or African American members of the Executioners.
10 These gang members routinely racially profile, harass, discriminate, and use
11 excessive force (and deadly force) against African American members of the
12 community. Mr. Burley was one of those community members.

13 19. Plaintiffs are informed and believe that DARREN did not die
14 immediately after being battered, tasered, and struck in the head and body with
15 impact weapons by the Defendant deputies. It was clear, or through the exercise of
16 reasonable diligence should have been clear, that immediately after he was
17 attacked by the deputies, DARREN was then in immediate need of medical
18 attention. Nevertheless, the Defendant deputies who were present at the scene,
19 wrongfully, negligently, intentionally, and/or with a deliberate indifference to
20 DARREN's rights and safety, failed to immediately summon medical assistance to
21 the scene to attend to his injuries. This delay in seeking medical assistance
22 demonstrated a conscious disregard for DARREN's medical condition, and was a
23 contributing factor in his falling into a coma and eventual death.
24

25 20. A state lawsuit was filed by the Plaintiffs on or about April 15, 2013.

26 21. On December 31, 2014, a jury by a vote of 9-3, found Defendant
27 AVILES liable for Battery by a Peace Officer.
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FIRST CAUSE OF ACTION

Excessive Force and Denial of Medical Care 42 U.S.C. § 1983

(Plaintiffs THE ESTATE OF DARREN BURLEY

against Defendant Aviles)

22. Plaintiffs repeat and re-allege each and every allegation in paragraphs 1 through 21 of this Complaint with the same force and effect as if fully set forth herein.

23. Defendant, individually and as a peace officer, unjustified beating deprived DECEDENT of his right to be secure in his person against unreasonable searches and seizures as guaranteed to DECEDENT under the Fourth Amendment of the United States Constitution and applied to state actors by the Fourteenth Amendment.

24. The unreasonable use of force by Defendant AVILES, individually and as a peace officer, deprived the DECEDENT of his right to be secure in his person against unreasonable searches and seizures as guaranteed to DECEDENT under the Fourth Amendment of the United States Constitution and applied to state actors by the Fourteenth Amendment.

25. As a result, DECEDENT suffered extreme pain and suffering and eventually suffered a loss of life and of earning capacity for which THE ESTATE OF DARREN BURLEY is entitled to recover damages. Plaintiffs have also been deprived of their life-long love, companionship, comfort, support, society, care, and sustenance of DECEDENT, and will continue to be so deprived for the remainder of their natural lives. Plaintiffs are also claiming funeral and burial expenses, loss of gifts and benefits and loss of financial support.

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1 26. As a result of the conduct of Defendant Aviles, individually and as a
2 peace officer, he is liable for DECEDENT's injuries, because he was an integral
3 participant in the excessive force.

4 27. Defendant, individually and as a peace officer, knew or should have
5 known that failure to provide timely medical treatment to DECEDENT could result
6 in further significant injury or the unnecessary and wanton infliction of pain, but
7 disregarded the serious medical need, causing him great bodily harm and death.

8 28. This use of deadly force was excessive and unreasonable under the
9 circumstances, especially since DECEDENT had done nothing violent before,
10 during and after he was battered. Defendant's actions, individually and as a peace
11 officer, thus deprived DECEDENT of his right to be free from unreasonable
12 searches and seizures under the Fourth Amendment and applied to state actors by
13 the Fourteenth Amendment.

14 29. The conduct of Defendant Aviles, individually and as a peace officer,
15 was willful, wanton, malicious, and done with reckless disregard for the rights and
16 safety of DECEDENT and therefore warrants the imposition of exemplary and
17 punitive damages as to Defendant Aviles.

18 30. Plaintiffs seek damages as successors-in-interest to DECEDENT.

19 31. Plaintiffs also seek attorney fees under this claim pursuant to 42
20 U.S.C. § 1988.
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SECOND CAUSE OF ACTION

**Unreasonable Search and Seizure - Detention and Arrest 42 U.S.C. § 1983
(Plaintiff THE ESTATE OF DARREN BURLEY, against Defendant Aviles)**

32. Plaintiffs repeat and re-allege each and every allegation in paragraphs 1 through 31 of this Complaint with the same force and effect as if fully set forth herein.

33. Defendant, individually and as a peace officer; caused DECEDENT to be detained and arrested in violation of his right to be secure in his person against unreasonable searches and seizures as guaranteed to DECEDENT under the Fourth Amendment to the United States Constitution and applied to state actors by the Fourteenth Amendment.

34. As a result of the conduct of Defendant, individually and as a peace officer; he is liable for DECEDENT's injuries, because he was an integral participant in the wrongful detention and arrest.

35. The DECEDENT was detained without reasonable suspicion and arrested without probable cause.

36. The conduct of Defendant Aviles, individually and as a peace officer was willful, wanton, malicious, and done with reckless disregard for the rights and safety of DECEDENT and therefore warrants the imposition of exemplary and punitive damages as to Defendant Aviles.

37. The Plaintiffs seek damages as successors-in-interest to DECEDENT and representative of the DECEDENT's estate.

38. Plaintiffs also seek attorney fees under this claim pursuant to 42 U.S.C. § 1988.

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THIRD CAUSE OF ACTION

Substantive Due Process - 42 U.S.C. § 1983

**(Plaintiffs, ESTATE and Minors against Defendant AVILES and
DOES 1-10, inclusive)**

39. Plaintiffs repeat and re-allege each and every allegation in paragraphs 1 through 38 of this Complaint with the same force and effect as if fully set forth herein.

40. Plaintiffs have a cognizable interest under the Due Process Clause of the Fourteenth Amendment of the United States Constitution to be free from state actions that deprive them from life, liberty, or property in such a manner as to shock the conscious, including but not limited to, unwarranted state interference in Plaintiffs' familial relationship with DECEDENT.

41. DECEDENT had a cognizable interest under the Due Process Clause of the Fourteenth Amendment of the United States Constitution to be free from state actions that deprive them from life, liberty, or property in such a manner as to shock the conscious.

42. As a result of the beating by Defendant Aviles, individually and as a peace officer, DECEDENT died. Minor Plaintiffs were thereby deprived of their constitutional right of familial relationship with DECEDENT.

43. Defendant Aviles, individually and as a peace officer, acting under the color of state law, thus violated the Fourteenth Amendment of minor Plaintiffs to be free from unwarranted interference with their familial relationship with DECEDENT.

44. The aforementioned actions of Defendant Aviles, individually and as a peace officer, along with other undiscovered conduct, shocks the conscious, in that he acted with deliberate indifference to the constitutional rights of

1 DECEDENT and minor Plaintiffs, with purpose to harm, unrelated to any
2 legitimate law enforcement objective.

3 45. As a direct and proximate cause of the acts of the Defendants,
4 individually and as peace officers, DECEDENT experienced severe pain and
5 suffering and lost his life and earning capacity for which THE ESTATE OF
6 DARREN BURLEY is entitled to recover damages. Minor Plaintiffs have also
7 been deprived of their life-long love, companionship, comfort, support, society,
8 care, and sustenance of DECEDENT, and will continue to be so deprived for the
9 remainder of their natural lives. Minor Plaintiffs are also claiming funeral and
10 burial expenses, loss of gifts and benefits and a loss of financial support.

11 46. The conduct of Defendant Aviles, individually and as a peace officer,
12 was willful, wanton, malicious, and done with reckless disregard for the rights and
13 safety of DECEDENT and therefore warrants the imposition of exemplary and
14 punitive damages as to Defendant Aviles.

15 47. Plaintiffs seek punitive damages.

16 48. Plaintiffs also seek attorney fees under this claim pursuant to 42
17 U.S.C. § 1988.
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19 **FOURTH CAUSE OF ACTION**

20 **Interference with Familial Relationship and Freedom of Association –**

21 **42 U.S.C. § 1983**

22 **(Plaintiffs THE ESTATE OF DARREN BURLEY, Minor Plaintiffs**
23 **against Defendants DOES 1-10, inclusive)**
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25 49. Plaintiffs repeat and re-allege each and every allegation in paragraphs
26 1 through 48 of this Complaint with the same force and effect as if fully set forth
27 herein.
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1 50. Plaintiffs had a cognizable interest under the Due Process Clause of
2 the Fourteenth Amendment of the United States Constitution to be free from state
3 actions that deprive them of life, liberty, or property in such a manner as to shock
4 the conscience, including but not limited to, unwarranted state interference in their
5 familial relationship with their father, DECEDENT.

6 51. As a result of the excessive force by Defendant Aviles, individually
7 and as a peace officer, DECEDENT died. Plaintiffs were thereby deprived of their
8 constitutional right and familial relationship with DECEDENT.

9 52. Defendant Aviles, individually and as a peace officer, acting under the
10 color of state law, thus violated the Fourteenth Amendment rights of Plaintiffs to
11 be free from unwarranted interference with their familial relationship with
12 DECEDENT.

13 53. The aforementioned actions of Defendant Aviles, individually and as
14 a peace officer, along with other undiscovered conduct, shocks the conscience, in
15 that he acted with deliberate indifference to the constitutional rights of
16 DECEDENT and minor Plaintiffs, with purpose to harm, unrelated to any
17 legitimate law enforcement objective.

18 54. As a direct and proximate cause of the acts of Defendant Aviles,
19 individually and as a peace officer, Plaintiffs have also been deprived of the life-
20 long comfort, support, society, care, and sustenance of DECEDENT, and will
21 continue to be so deprived for the remainder of their natural lives. Plaintiffs are
22 also claiming funeral and burial expenses, loss of gifts and benefits and a loss of
23 financial support.

24 55. The conduct of Defendant Aviles, individually and as a peace officer,
25 was malicious, oppressive, and in reckless disregard for the rights and safety of
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1 DECEDENT and Plaintiffs, and therefore warrants the imposition of exemplary
2 and punitive damages as to Defendants.

3 56. Decedent's successors-in-interest seek wrongful death damages under
4 this claim.

5 6 **FIFTH CAUSE OF ACTION**

7 **Municipal Liability for Unconstitutional Custom or Policy - 42 U.S.C. § 1983**

8 **(Plaintiffs THE ESTATE OF DARREN BURLEY against Defendants**

9 **COUNTY OF LOS ANGELES and DOES Defendants)**

10 57. Plaintiffs repeat and re-allege each and every allegation in paragraphs
11 1 through 56 of this Complaint with the same force and effect as if fully set forth
12 herein.

13 58. On information and belief Defendant's conduct, individually and as a
14 peace officer, who killed DECEDENT, was ratified by COUNTY's sheriff's
15 department supervisory deputies.

16 59. On information and belief, Defendant Aviles was not disciplined for
17 killing DECEDENT, who did not pose a risk to Defendant.

18 60. On and for some time prior to August 3, 2012, (and continuing to the
19 present day) Defendant Aviles, individually and as a peace officer, deprived
20 Plaintiffs and DECEDENT of their rights and liberties secured to them by the
21 Fourteenth Amendment to the United States Constitution, in that said defendants
22 and their supervising and managerial employees, agents, and representatives,
23 acting with gross negligence and with reckless and deliberate indifference to the
24 rights and liberties of the public in general, and of Plaintiffs and DECEDENT, and
25 of persons in their class, situation and comparable position in particular, knowingly
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1 maintained, enforced and applied an official recognized custom, policy, and
2 practice of:

- 3 a. Failing to train officers how to engage in a foot pursuit without
4 the use of deadly force where the circumstances do not risk
5 death or great bodily injury of the officer or other individual.
6 At all times stated in this complaint, Mr. BURLEY was
7 unarmed.
- 8 b. Employing and retaining as sheriff deputies and other
9 personnel, including Defendant Aviles, individually and as a
10 peace officer; who at all times material herein knew or
11 reasonably should have known had dangerous propensities for
12 abusing their authority and for mistreating citizens by failing to
13 follow written COUNTY Police Department policies, including
14 the use of excessive and deadly force;
- 15 c. Of inadequately supervising, training, controlling, assigning,
16 and disciplining COUNTY sheriff deputies, and other
17 personnel, including Defendants who COUNTY knew or in the
18 exercise of reasonable care should have known had the
19 aforementioned propensities and character traits, including the
20 propensity for violence and the use of excessive force;
- 21 d. By maintaining grossly inadequate procedures for reporting,
22 supervising, investigating, reviewing, disciplining, and
23 controlling the intentional misconduct by Defendant Aviles
24 who is a sheriff deputy of the COUNTY;
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- e. By failing to discipline COUNTY Sheriff Deputies' conduct, including but not limited to, unlawful detention and excessive and deadly force;
- f. By ratifying the intentional misconduct of Defendant Aviles and other Deputies who are Sheriff Deputies of the COUNTY;
- g. By having and maintaining an unconstitutional policy, custom and practice of detaining and arresting individuals without probable cause or reasonable suspicion, and using excessive force, including deadly force, which also is demonstrated by inadequate training regarding these subjects. The policies, customs and practices of Defendant was done with a deliberate indifference to individuals' safety and rights; and
- h. By failing to properly investigate claims of unlawful detention and excessive force by COUNTY Sheriff Deputies.
- i. By failing to discipline, investigate or eliminate Deputy gangs and gang members (including Defendant Aviles) within the Department - not limited to just the Executioners.

61. By reason of the aforementioned policies and practices of Defendant Aviles, individually and as a peace officer, DECEDENT was severely injured and subjected to pain and suffering and lost his life and earning capacity for which THE ESTATE OF DARREN BURLEY is entitled to recover damages.

62. Defendant Aviles, individually and as a peace officer, together with various other officials, whether named or unnamed, had either actual or constructive knowledge of the deficient policies, practices, and customs alleged in the paragraphs above. Despite having knowledge as stated above these defendants condoned, tolerated and through actions and inactions thereby ratified such

1 policies. Said defendants also acted with deliberate indifference to the foreseeable
2 effects and consequences of these policies with respect to the constitutional rights
3 of DECEDENT, Plaintiffs, and other individuals similarly situated.

4 63. By perpetrating, sanctioning, tolerating, and ratifying the outrageous
5 conduct and other wrongful acts, Defendants, individually and as peace officers;
6 acted with an intentional, reckless, and callous disregard for the life of
7 DECEDENT, and Plaintiffs' constitutional rights. Each of their actions were
8 willful, wanton, oppressive, malicious, fraudulent, and extremely offensive and
9 unconscionable to any person of normal sensibilities.

10 64. Furthermore, the policies practices, and customs implemented and
11 maintained and still tolerated by Defendants, individually and as peace officers;
12 were affirmatively linked to and were significantly influential force behind the
13 injuries of DECEDENT and Plaintiffs.

14 65. By reason of the aforementioned acts and omissions of Defendants,
15 individually and as peace officers, Plaintiffs were caused to incur funeral and
16 related burial expenses, loss of gifts and benefits and loss of financial support.

17 66. By reason of the aforementioned acts and omissions of Defendants,
18 individually and as peace officers, Plaintiffs have suffered loss of love,
19 companionship, affection, comfort, care, society, and future support.

20 67. Accordingly, Defendants, individually and as peace officers, each are
21 liable to Plaintiffs for compensatory damages under 42 U.S.C. § 1983.

22 68. Plaintiffs seek wrongful death damages under this claim.

23 69. Plaintiffs also seek attorney fees under this claim.

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1 **WHEREFORE**, Plaintiffs requests relief as hereinafter provided.

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3 **PRAYER FOR RELIEF**

4 1. For compensatory damages, including both survival damages and
5 wrongful death damages under federal and state law, in an amount to be proven at
6 trial;

7 2. For funeral expenses and loss of financial support;

8 3. For punitive damages against the individual defendants in an amount
9 to be proven at trial;

10 4. For prejudgment interest;

11 5. For an award of general and special damages in the amount to be
12 proven at trial;

13 6. For reasonable costs of this suit incurred herein;

14 7. For reasonable attorney's fees and costs as provided by law;

15 8. For such further other relief as the Court may deem just, proper and
16 appropriate.
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20 Respectfully submitted,

21 Dated: June 17, 2022

DOUGLAS / HICKS LAW, APC

22
23 By: ***/s/ Jamon R. Hicks***

24 CARL E. DOUGLAS, ESQ.

JAMON R. HICKS, ESQ.

25 Attorneys for Plaintiffs,

26 D.A.B. and D.Y.B., by and through their

27 Guardian ad Litem, TERRI THOMAS, and

as Successors in Interest to the ESTATE of

28 DARREN BURLEY

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a trial by jury.

Dated: June 17, 2022

DOUGLAS / HICKS LAW, APC

By: /s/ Jamon R. Hicks

CARL E. DOUGLAS, ESQ.

JAMON R. HICKS, ESQ.

Attorneys for Plaintiffs,

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